

PAUL OGROOGAK

IBLA 76-131

Decided September 22, 1975

Appeal from decision of Fairbanks District Office, Bureau of Land Management, rejecting application for Native allotment within Naval Petroleum Reserve No. 4. F 18134.

Affirmed.

1. Alaska: Native Allotments

Lands in Naval Petroleum Reserve No. 4 are not available for Alaska Native allotments.

APPEARANCES: William D. Rives, Esq., Davis, Wright, Todd, Riese & Jones, Seattle, Washington, for appellant.

OPINION BY ADMINISTRATIVE JUDGE HENRIQUES

Paul Ogroogak appeals from a decision of the Fairbanks District Office, Bureau of Land Management, which rejected his application for Native allotment because it embraced lands withdrawn for Naval Petroleum Reserve No. 4.

[1] Naval Petroleum Reserve No. 4 (Pet 4) was established by E.O. 3797-A of February 23, 1923. Lands in Pet 4 and others were withdrawn from appropriation under any of the public land laws by P.L.O. 82 of February 4, 1943. P.L.O. 2215 of December 8, 1960, revoked P.L.O. 82 and opened some of the previously withdrawn lands to entry, but the Order expressly stated that no lands in Pet 4 were affected by the revocation, as all land in Pet 4 is under the jurisdiction of the Secretary of the Navy, 10 U.S.C. § 7421 et seq. (1970). This Department has held that from the date of establishment of Pet 4 in 1923, none of the lands therein have been open to any appropriation, including Native allotments. See, e.g., Elsie May Pikok Crow, 3 IBLA 114 (1971).

Appellant adopts as his statements of reasons for appeal the briefs filed in connection with earlier appeals submitted to this Board by Christina A. Fischer and others in docket numbers IBLA 73-96, IBLA 73-107, IBLA 73-173 and IBLA 73-246. The arguments presented in those briefs were disposed of by the Board in Christina A. Fischer, 15 IBLA 79 (1974). In Fischer, the Board held that where a Native had not completed 5 years of substantial use and occupancy of lands in Pet 4 before the withdrawal order of February 23, 1923, no rights to a Native allotment are created.

Appellant asserts use of the land since 1950, and there is no indication that he was using the land withdrawn for Pet 4 for 5 years, or at all, prior to the withdrawal for Pet 4 in 1923. For reasons set out in Fischer, supra, the decision by the Fairbanks Office is correct.

Therefore, pursuant to the authority delegated to the Board of Land Appeals by the Secretary of the Interior, 43 CFR 4.1, the decision appealed from is affirmed.

Douglas E. Henriques
Administrative Judge

We concur:

Edward W. Stuebing
Administrative Judge

Frederick Fishman
Administrative Judge

